

PUBLIC ADVOCATES OFFICE

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Subject: Comments of the Public Advocates Office on the Draft Compliance Operational Protocols

I. INTRODUCTION

Pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) and the Wildfire Safety Division's (WSD) guidance, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits these comments on the WSD's Draft Compliance Operational Protocols.

In these comments, Cal Advocates makes the following recommendation:

- The WSD should revise the Draft Compliance Operational Protocols to clarify that Notices of Non-compliance will be posted on the WSD's website as they occur.

II. BACKGROUND

Public Utilities Code Section 8389(d) requires the Commission to consult with the Wildfire Safety Division (WSD) and adopt a process for assessing electrical corporations'¹ compliance with wildfire mitigation plans (WMPs) by December 1, 2020 and annually thereafter.²

¹ Many of the Public Utilities Code requirements relating to wildfires apply to "electrical corporations." See e.g., Public Utilities Code Section 8386. Hereinafter, these comments will use the more common term "utilities" and the phrase "electrical corporations" interchangeably to refer to the entities that must comply with the wildfire safety provisions of the Public Utilities Code.

² Public Utilities Code Section 8389(d)(3).

On November 19, 2020, the WSD approved Resolution WSD-012,³ which implements the requirements of Public Utilities Code Section 8389(d)(3). Attachment 1 of Resolution WSD-012 delineates a WMP compliance process (hereinafter WMP Compliance Process).

On January 8, 2021, the WSD issued its Draft Compliance Operational Protocols, pursuant to Resolution WSD-012 and Attachment 1. The Draft Compliance Operational Protocols propose annual and quarterly reporting requirements for all utilities, and provide draft guidance to utilities on the content, format, and timing of the annual and quarterly reports. The WSD permits stakeholders to submit comments on the Draft Compliance Operational Protocols based on factual, legal, or technical errors, by January 22, 2021.

III. DISCUSSION

A. **The WSD should revise the Draft Compliance Operational Protocols to clarify that Notices of Non-compliance will be posted on the WSD’s website as they occur.**

The Draft Compliance Operational Protocols state, “Specific consequences resulting from the compliance assessment will include notices of non-compliance resulting from a failure to timely correct defects.”⁴ The authority to impose such consequences to utilities is set forth in Resolution WSD-012.⁵

Cal Advocates previously commented on Notices of Non-compliance discussed in Draft Resolution WSD-012, stating that the WSD should publish a public notice on its website whenever it issues a Notice of Non-compliance to a utility.⁶ In Revision 1 of Draft Resolution WSD-012 (hereinafter Draft Resolution WSD-012, Revision 1), the WSD provided a synopsis of modifications it made based on stakeholder comments on its previous draft of Draft Resolution WSD-012.⁷ Among the modifications it made, the WSD stated, “In response to comments from Cal Advocates regarding the issuance of a public notice for each Notice of Noncompliance, the WSD anticipates posting Notices of

³ Resolution WSD-012 dated November 19, 2020, issued November 23, 2020 (hereinafter Resolution WSD-012 or final version of Resolution WSD-012), available at <https://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=351834801>.

⁴ Draft Compliance Operational Protocols, p. 3.

⁵ Resolution WSD-012, p. 7.

⁶ See Comments of the Public Advocates Office on Draft Resolution WSD-012, submitted November 3, 2020, pp. 3-4.

⁷ Draft Resolution WSD-012, Revision 1, dated November 19, 2020, Agenda ID #18861, p. 9, available at <https://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=351403692>.

Noncompliance on the WSD website as they occur.”⁸ This language was present in Draft Resolution WSD-012, Revision 1, which appeared as Agenda Item #37 and was approved by the Commission at the November 19, 2020 voting meeting.

Thereafter, the WSD issued the final version of Resolution WSD-012 on November 23, 2020. This version omits the WSD’s synopsis of modifications in responses to stakeholder comments in Draft Resolution WSD-012, Revision 1.⁹ Consequently, neither Resolution WSD-012 nor the WMP Compliance Process included in Attachment 1 of Resolution WSD-012 state that the WSD will post Notices of Non-compliance on its website as they are issued. Additionally, the WSD’s responses to five other stakeholder comments were omitted from the final Resolution WSD-012.

As the language regarding publicly publishing Notices of Non-compliance was present in Draft Resolution WSD-012, Revision 1, which was voted on at the November 19, 2020 Commission Meeting agenda,¹⁰ its omission from the final Resolution WSD-012 appears to be an error.¹¹

The WSD should revise the Draft Compliance Operational Protocols to clarify its adoption of the modifications it made in Draft Resolution WSD-012, Revision 1, including that the WSD intends to post Notices of Non-compliance on the WSD’s website as they occur.

As discussed in Cal Advocates’ previous comments, wildfire safety is a matter of public concern. Publishing Notices of Non-compliance publicly and swiftly on the WSD’s website after their issuance serves the public interest by making the safety compliance process more transparent and increasing utility accountability. Without public notice, the division of enforcement responsibilities between the WSD and Safety and Enforcement Division (SED)¹² could cause unintended delays between assessment and enforcement, leading to utilities failing to resolve defects in a timely manner. To serve the public interest, the WSD should publish a public notice on its website whenever it issues a Notice of Non-compliance to a utility or recommends an enforcement action to the SED.

⁸ Draft Resolution WSD-012, Revision 1, dated November 19, 2020, Agenda ID #18861, p. 9, available at <https://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=351403692>.

⁹ Resolution WSD-012, p. 8.

¹⁰ Results of Commission Meeting November 19, 2020 -- Agenda 3475 - 3rd REVISED, Item # 37.

¹¹ The omission appears to be an inadvertent clerical error since the Commission did not issue a Revision 2 of Draft Resolution WSD-012 prior to issuing the final version of Resolution WSD-012.

¹² Final Resolution WSD-012, p. 7 and Attachment 1, p. 6.

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IV. CONCLUSION

Cal Advocates respectfully requests that the Wildfire Safety Division adopt the recommendations discussed herein.

Sincerely,

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